

1 HOUSE BILL NO. 188

2 INTRODUCED BY DEVLIN

3 BY REQUEST OF THE DEPARTMENT OF REVENUE

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5 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A TRESPASS EXCEPTION FOR DEPARTMENT OF
 6 REVENUE PROPERTY VALUATION EMPLOYEES ACTING WITHIN THE COURSE AND SCOPE OF THEIR
 7 DUTIES; REQUIRING THAT THE DEPARTMENT PUBLISH NOTICE OF INTENT TO ENTER ONTO
 8 PROPERTY FOR APPRAISAL AND AUDIT PURPOSES; REQUIRING THAT THE DEPARTMENT MAIL A
 9 ONE-TIME NOTICE TO OWNERS OF PRIVATE POSTED LAND THAT DEPARTMENT EMPLOYEES MAY
 10 ENTER THE PROPERTY FOR APPRAISAL AND AUDIT PURPOSES; REQUIRING THAT COUNTY
 11 TREASURERS ANNUALLY PROVIDE NOTICE TO LANDOWNERS THAT DEPARTMENT EMPLOYEES MAY
 12 ENTER PRIVATE LAND FOR APPRAISAL AND AUDIT PURPOSES; PROVIDING THAT PROPERTY
 13 VALUATION EMPLOYEES MAY ENTER PROPERTY UNDER SPECIFIC GUIDELINES; ALLOWING THE
 14 LANDOWNER TO REQUIRE THAT THE LANDOWNER OR LANDOWNER'S AGENT BE PRESENT WHEN
 15 DEPARTMENT EMPLOYEES ENTER THE LANDOWNER'S PROPERTY; ALLOWING THE DEPARTMENT
 16 TO ESTIMATE THE VALUE OF PROPERTY WHEN ACCESS IS DENIED; PROHIBITING, UNDER CERTAIN
 17 CONDITIONS, A COUNTY TAX APPEAL BOARD AND THE STATE TAX APPEAL BOARD FROM ADJUSTING
 18 ESTIMATED PROPERTY VALUES; AMENDING SECTION 45-6-203, MCA; AND PROVIDING AN IMMEDIATE
 19 EFFECTIVE DATE AND A TERMINATION DATE."

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21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

22

23 NEW SECTION. **Section 1. Requirements for entry on property by property valuation staff**
 24 **employed by department -- authority to estimate value of property not entered -- RULES.** (1) Subject to the
 25 conditions and restriction of this section, the provisions of 45-6-203 do not apply to property valuation staff
 26 employed by the department and acting within the course and scope of the employees' official duties.

27 (2) A person qualified under subsection (1) may enter private land to appraise or audit property for
 28 property tax purposes.

29 (3) (a) No later than ~~[60 days after the effective date of this act]~~ for the year 2003 and January 31
 30 NOVEMBER 30 of each ~~successive~~ year, the department shall publish in a newspaper of general circulation in

1 each county a notice that the department may enter property for the purpose of appraising or auditing property.

2 (b) The published notice must indicate:

3 (i) that a landowner may require that the landowner or the landowner's agent be present when the
4 person qualified in subsection (1) enters the land to appraise or audit property;

5 (ii) that the landowner shall notify the department in writing of the landowner's requirement that the
6 landowner or landowner's agent be present; and

7 (iii) that the landowner's written notice must be mailed to the department at an address specified and
8 be postmarked not more than 30 days following the date of publication of the notice. THE DEPARTMENT MAY GRANT
9 A REASONABLE EXTENSION OF TIME FOR RETURNING THE WRITTEN NOTICE.

10 (4) The written notice described in subsection (3)(b)(ii) must be legible and include:

11 (a) the landowner's full name;

12 (b) the mailing address and property address; and

13 (c) a telephone number at which an appraiser may contact the landowner during normal business hours.

14 (5) When the department receives a written notice as described in subsection (4), the department shall
15 contact the landowner or the landowner's agent to establish a date and time for entering the land to appraise
16 or audit the property.

17 (6) If a landowner or the landowner's agent prevents a person qualified under subsection (1) from
18 entering land to appraise or audit property or fails or refuses to establish a date and time for entering the land
19 pursuant to subsection (5), the department shall estimate the value of the real and personal property located on
20 the land.

21 (7) A county tax appeal board and the state tax appeal board may not adjust the estimated value of the
22 real or personal property determined under subsection (6) unless the landowner or the landowner's agent gives
23 permission to the department to enter the land to appraise or audit the property.

24 (8) A person qualified under subsection (1) who enters land pursuant to this section shall carry on the
25 person identification sufficient to identify the person and the person's employer and shall present the
26 identification upon request.

27 (9) The authority granted by this section does not authorize entry into improvements, personal property,
28 or buildings or structures without the permission of the owner or the owner's agent.

29 (10) Vehicular access to perform appraisals and audits is limited to established roads and trails, unless
30 approval for other vehicular access is granted by the landowner.

1 (11) THE DEPARTMENT SHALL ADOPT RULES THAT ARE NECESSARY TO IMPLEMENT [SECTIONS 1 AND 2]. THE
 2 RULES MUST, AT A MINIMUM, ESTABLISH PROCEDURES FOR GRANTING A REASONABLE EXTENSION OF TIME FOR
 3 LANDOWNERS TO RESPOND TO NOTICES FROM THE DEPARTMENT.

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 5 NEW SECTION. SECTION 2. NOTICE APPRAISAL AND AUDIT -- STATEMENT OF RIGHTS. EACH COUNTY
 6 TREASURER SHALL INCLUDE IN THE NOTICE REQUIRED BY 15-16-101(1), 15-16-119, AND 15-24-202 A STATEMENT THAT
 7 PROPERTY VALUATION STAFF EMPLOYED BY THE DEPARTMENT MAY ENTER PRIVATE PROPERTY TO APPRAISE OR AUDIT
 8 PROPERTY FOR PROPERTY TAX PURPOSES AS PROVIDED IN [SECTION 1]. THE NOTICE MUST INCLUDE A STATEMENT OF
 9 LANDOWNER RIGHTS IN WORDS SUBSTANTIALLY SIMILAR TO: "YOU OR YOUR AGENT HAVE THE RIGHT TO BE PRESENT WHEN
 10 YOUR PROPERTY IS APPRAISED OR AUDITED. IF YOU WISH TO MAKE AN APPOINTMENT FOR THE NEXT TAX YEAR, CALL
 11 [INSERT LOCAL DEPARTMENT OF REVENUE OFFICE PHONE NUMBER] OR WRITE YOUR LOCAL DEPARTMENT OF REVENUE
 12 OFFICE BETWEEN DECEMBER 1 AND DECEMBER 31 OF THIS YEAR."

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 14 NEW SECTION. SECTION 3. NOTIFICATION APPRAISAL AND AUDIT. FOR PROPERTY IDENTIFIED BY THE
 15 DEPARTMENT OF REVENUE AS POSTED PRIVATE LAND PURSUANT TO 45-6-201, THE DEPARTMENT SHALL, NOT LATER THAN
 16 [60 DAYS AFTER THE EFFECTIVE DATE OF THIS ACT], MAIL NOTICE TO THE OWNER OF THE POSTED PRIVATE LAND THAT
 17 PROPERTY VALUATION STAFF EMPLOYED BY THE DEPARTMENT MAY ENTER THE PROPERTY TO APPRAISE OR AUDIT
 18 PROPERTY FOR PROPERTY TAX PURPOSES. THE NOTICE MUST INCLUDE THE PROVISIONS OF [SECTION 1(3) AND (4)].

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 20 **Section 4.** Section 45-6-203, MCA, is amended to read:
 21 **"45-6-203. Criminal trespass to property.** (1) Except as provided in [section 1] and 70-16-111, a
 22 person commits the offense of criminal trespass to property if the person knowingly:

23 (a) enters or remains unlawfully in an occupied structure; or

24 (b) enters or remains unlawfully in or upon the premises of another.

25 (2) A person convicted of the offense of criminal trespass to property shall be fined not to exceed \$500
 26 or be imprisoned in the county jail for any term not to exceed 6 months, or both."

27
 28 NEW SECTION. SECTION 5. Codification instruction. [Section SECTIONS 1 AND 2] is ARE intended to
 29 be codified as an integral part of Title 15, chapter 7, part 1, and the provisions of Title 15, chapter 7, part 1, apply
 30 to [section SECTIONS 1 AND 2].

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2 NEW SECTION. Section 6. Effective date. [This act] is effective on passage and approval.

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4 NEW SECTION. SECTION 7. TERMINATION. [SECTION 3] TERMINATES SEPTEMBER 1, 2003.

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